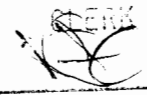


UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

2021 APR -7 AM 10:26

NILAY KAMAL PATEL and RACHEL A. )  
GLADSTONE, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
UNIVERSITY OF VERMONT AND )  
STATE AGRICULTURAL COLLEGE, )  
 )  
Defendant. )

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Case No. 5:20-cv-61

**SUPPLEMENTAL ORDER ON MOTION TO DISMISS  
(Doc. 11)**

The court's March 15, 2021 Order reserved ruling on the UVM's motion to dismiss the portions of Counts III and VI that concern parking fees, and directed Plaintiffs to provide a more definite statement indicating whether Plaintiffs Nilay Patel and Rachel Gladstone (or anyone on their behalf) paid parking fees for UVM's spring 2020 semester. (Doc. 57 at 32.) Plaintiffs filed a statement on March 22, 2021. (Doc. 60.) They state that they were "not personally aggrieved by the refusal to return a parking fee," but they maintain that the named plaintiffs do not need to have personally experienced every type of fee loss "to allege *on behalf of a class* that UVM did not reimburse a number of different fees." (*Id.* at 2.) They further assert that even if there were such a requirement, the issue should be addressed at the class-certification stage, not on a motion to dismiss. (*Id.* at 2–3.) UVM filed a response on April 1, 2021. (Doc. 61.) UVM argues that since the named plaintiffs did not pay any parking fees, they lack standing and have failed to plead a plausible claim for relief. (*Id.* at 1.)

"It is well established that, in the class action context, a named Plaintiff must have standing to assert both its own individual claims and the class claims brought on behalf of the

putative class.” *In re Veon Ltd. Secs. Litig.*, No. 15-cv-08672 (ALC), 2021 WL 930478, at \*6 (S.D.N.Y. Mar. 11, 2021). “Accordingly, ‘[f]or each claim asserted in a class action, there must be at least one class representative (a named plaintiff or a lead plaintiff) with standing to assert that claim.’” *Id.* (alteration in original; quoting *Fort Worth Emps. ’ Ret. Fund v. J.P. Morgan Chase & Co.*, 862 F. Supp. 2d 322, 331 (S.D.N.Y. 2012)). “Claims for which the class representatives do not have standing must be dismissed.” *Id.* (cleaned up). “Moreover, even if a case has several named Plaintiffs, where the claims of a particular named Plaintiff have become moot, and the other named Plaintiffs lack standing to assert them, those claims are typically dismissed.” *Id.*

Here, both named plaintiffs have clarified that they were “not personally aggrieved by the refusal to return a parking fee.” (Doc. 60 at 2.) But Plaintiffs appear to suggest that they do seek return of other fees, and that they have standing to assert the class claims for non-return of all types of fees. UVM disagrees, arguing that the court’s prior dismissal of the claims related to the comprehensive fee and room and board means that “there are no other fee claims to latch onto.” (Doc. 61 at 2.) UVM also argues that even if Plaintiffs could plead that they paid some fee other than for parking, they still lack standing to assert claims for parking fees. (*Id.* at 3.)


The court concludes that it is unnecessary to resolve those issues. UVM has represented that it has refunded parking fees for the spring 2020 semester. (Doc. 61 at 4.) UVM states that “[i]f there is someone (and UVM knows of no one) who has not received a refund, UVM will promptly issue one.” (*Id.*) The court accordingly concludes that UVM has conceded the issue of parking fees as to any potential class members. That issue is no longer “live” and is therefore moot. *Cf. Jin v. Shanghai Original, Inc.*, 990 F.3d 251, 257 (2d Cir. 2021) (“If ‘the issues presented are no longer “live” or the parties lack a legally cognizable interest in the outcome,’

the case becomes moot.” (quoting *U.S. Parole Comm’n v. Geraghty*, 445 U.S. 388, 396 (1980))).

The court will accordingly dismiss the portions of Counts III and VI that concern parking fees; those claims are moot.

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 7<sup>th</sup> day of April, 2021.

  
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Geoffrey W. Crawford, Chief Judge  
United States District Court